

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

In re: )  
JAMES F. MCAULIFFE, ) CHAPTER 7  
Debtor. ) CASE NO. 16-11089-MSH  
\_\_\_\_\_  
JOHN O. DESMOND, CHAPTER 7 )  
TRUSTEE FOR THE ESTATE OF )  
JAMES F. MCAULIFFE )  
Plaintiff, ) ADVERSARY PROCEEDING  
v. ) NO. 16-01164-MSH  
ROBIN S. GILBERT, )  
Defendant. )  
\_\_\_\_\_

**JOINT MOTION TO APPROVE EXTENSION OF DISCOVERY DEADLINE AND  
PROPOSED DISCOVERY PLAN AND RULE 26(f) CERTIFICATION**

Plaintiff John O. Desmond, Chapter 7 Trustee for the Estate of James F. McAuliffe and defendant Robin S. Gilbert hereby ask that this Court approve the extension of the discovery deadline and the [Proposed] Discovery Plan and Rule 26(f) Certification, filed herewith. This discovery plan constitutes a change from that set forth in the Court's Pretrial Order dated October 31, 2016. The changes were precipitated largely to accommodate anticipated fact discovery and the addition of expert-related deadlines into the discovery schedule.

In support of this Motion, the Parties state as follows:

1. On March 28, 2016 (the "Petition Date"), the Debtor filed a voluntary petition pursuant to Chapter 7 of the Bankruptcy Code.

2. On March 29, 2016, the Trustee was appointed as the Chapter 7 trustee of the Debtor's bankruptcy estate.
3. On September 15, 2016, the Trustee filed an adversary complaint against Robin S. Gilbert pursuant to Section 363(h) of the Bankruptcy Code and Rule 7001(3) of the Federal Rules of Bankruptcy Procedure (the "Adversary Complaint").
4. On October 31, 2016, the Court issued a Pretrial Order (the "Pretrial Order").
5. The Pretrial Order set the deadline for the completion of fact discovery for January 27, 2017.
6. On November 21, 2016 the Parties held a Rule 26(f) Conference to discuss matters set forth in the Pretrial Order.
7. Pursuant to the Parties Rule 26(f) conference, pending approval by the Court, the parties are simultaneously filing a [Proposed] Discovery Plan and Rule 26(f) Certification (the "Discovery Plan").
8. The Parties have agreed that the deadlines set forth in the Discovery Plan are reasonable and the extra time beyond the Pretrial Order deadlines is necessary to allow the Parties to conduct the discovery appropriate to support the Parties' claims and defenses.
9. The Parties state that the requested changes to the Pretrial Order will not prejudice any party, nor will it result in any added burden on the Court.

WHEREFORE, John O. Desmond, the Chapter 7 Trustee, and Robin S. Gilbert respectfully request that this Court enter an Order allowing this Motion to extend the discovery deadline from January 27, 2017 to February 21, 2017 as indicated in the [Proposed] Discovery Plan and approving the Discovery Plan and Rule 26(f) Certification.

Respectfully submitted,

**JOHN O. DESMOND, CHAPTER 7 TRUSTEE  
OF THE ESTATE OF JAMES. F. MCAULIFFE**

**By his attorneys,**

*/s/ Anthony R. Leone*

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Dated: November 30, 2016

**ROBIN S. GILBERT**

**By her attorney,**

*/s/ Gary W. Cruickshank*

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Dated: November 30, 2016